

107TH CONGRESS
1ST SESSION

S. 880

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2001

Mr. DEWINE (for himself and Mrs. LINCOLN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immunosuppressive
5 Drug Coverage Act of 2001”.

1 **SEC. 2. PROVISION OF APPROPRIATE COVERAGE OF IM-**
 2 **MUNOSUPPRESSIVE DRUGS UNDER THE**
 3 **MEDICARE PROGRAM.**

4 (a) CONTINUED ENTITLEMENT TO IMMUNO-
 5 SUPPRESSIVE DRUGS FOR KIDNEY TRANSPLANT RECIPI-
 6 ENTS.—

7 (1) IN GENERAL.—Section 226A(b)(2) of the
 8 Social Security Act (42 U.S.C. 426–1(b)(2)) is
 9 amended by inserting “(except for coverage of im-
 10 munosuppressive drugs under section
 11 1861(s)(2)(J))” after “shall end”.

12 (2) APPLICATION.—In the case of an individual
 13 whose eligibility for benefits under title XVIII of the
 14 Social Security Act (42 U.S.C. 1395 et seq.) has
 15 ended except for the coverage of immunosuppressive
 16 drugs by reason of the amendment made by para-
 17 graph (1), the following rules shall apply:

18 (A) The individual shall be deemed to be
 19 enrolled in part B of the original medicare fee-
 20 for-service program under title XVIII of the So-
 21 cial Security Act (42 U.S.C. 1395j et seq.) for
 22 purposes of receiving coverage of such drugs.

23 (B) The individual shall be responsible for
 24 the full part B premium under section 1839 of
 25 such Act (42 U.S.C. 1395r) in order to receive
 26 such coverage.

1 (C) The provision of such drugs shall be
2 subject to the application of—

3 (i) the part B deductible under section
4 1833(b) of such Act (42 U.S.C. 1395l(b));
5 and

6 (ii) the coinsurance amount applicable
7 for such drugs (as determined under such
8 part B).

9 (D) If the individual is an inpatient of a
10 hospital or other entity, the individual is enti-
11 tled to receive coverage of such drugs under
12 such part B.

13 (3) ESTABLISHMENT OF PROCEDURES IN
14 ORDER TO IMPLEMENT COVERAGE.—The Secretary
15 of Health and Human Services shall establish proce-
16 dures for—

17 (A) identifying beneficiaries that are enti-
18 tled to coverage of immunosuppressive drugs by
19 reason of the amendment made by paragraph
20 (1); and

21 (B) distinguishing such beneficiaries from
22 beneficiaries that are enrolled under part B of
23 title XVIII of the Social Security Act for the
24 complete package of benefits under such part.

1 (4) TECHNICAL AMENDMENT.—Subsection (c)
 2 of section 226A (42 U.S.C. 426–1), as added by sec-
 3 tion 201(a)(3)(D)(ii) of the Social Security Inde-
 4 pendence and Program Improvements Act of 1994
 5 (Public Law 103–296; 108 Stat. 1497), is redesign-
 6 nated as subsection (d).

7 (b) EXTENSION OF SECONDARY PAYER REQUIRE-
 8 MENTS FOR ESRD BENEFICIARIES.—Section
 9 1862(b)(1)(C) of the Social Security Act (42 U.S.C.
 10 1395y(b)(1)(C)) is amended by adding at the end the fol-
 11 lowing new sentence: “With regard to immunosuppressive
 12 drugs furnished on or after the date of enactment of the
 13 Immunosuppressive Drugs Coverage Act of 2001, this
 14 subparagraph shall be applied without regard to any time
 15 limitation.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to drugs furnished on or after the
 18 date of enactment of this Act.

19 **SEC. 3. PLANS REQUIRED TO MAINTAIN COVERAGE OF IM-**
 20 **MUNOSUPPRESSIVE DRUGS.**

21 (a) APPLICATION TO CERTAIN HEALTH INSURANCE
 22 COVERAGE.—

23 (1) IN GENERAL.—Subpart 2 of part A of title
 24 XXVII of the Public Health Service Act (42 U.S.C.

1 300gg–4 et seq.) is amended by adding at the end
2 the following:

3 **“SEC. 2707. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

4 “A group health plan (and a health insurance issuer
5 offering health insurance coverage in connection with a
6 group health plan) shall provide coverage of immuno-
7 suppressive drugs that is at least as comprehensive as the
8 coverage provided by such plan or issuer on the day before
9 the date of enactment of the Immunosuppressive Drug
10 Coverage Act of 2001, and such requirement shall be
11 deemed to be incorporated into this section.”.

12 (2) CONFORMING AMENDMENT.—Section
13 2721(b)(2)(A) of the Public Health Service Act (42
14 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting
15 “(other than section 2707)” after “requirements of
16 such subparts”.

17 (b) APPLICATION TO GROUP HEALTH PLANS AND
18 GROUP HEALTH INSURANCE COVERAGE UNDER THE EM-
19 PLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

20 (1) IN GENERAL.—Subpart B of part 7 of sub-
21 title B of title I of the Employee Retirement Income
22 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
23 amended by adding at the end the following new sec-
24 tion:

1 **“SEC. 714. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

2 “A group health plan (and a health insurance issuer
3 offering health insurance coverage in connection with a
4 group health plan) shall provide coverage of immuno-
5 suppressive drugs that is at least as comprehensive as the
6 coverage provided by such plan or issuer on the day before
7 the date of enactment of the Immunosuppressive Drug
8 Coverage Act of 2001, and such requirement shall be
9 deemed to be incorporated into this section.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 732(a) of the Employee Retire-
12 ment Income Security Act of 1974 (29 U.S.C.
13 1185(a)) is amended by striking “section 711”
14 and inserting “sections 711 and 714”.

15 (B) The table of contents in section 1 of
16 the Employee Retirement Income Security Act
17 of 1974 is amended by inserting after the item
18 relating to section 713 the following new item:

“Sec. 714. Coverage of Immunosuppressive drugs.”.

19 (c) APPLICATION TO GROUP HEALTH PLANS UNDER
20 THE INTERNAL REVENUE CODE OF 1986.—Subchapter B
21 of chapter 100 of the Internal Revenue Code of 1986 is
22 amended—

1 (1) in the table of sections, by inserting after
2 the item relating to section 9812 the following new
3 item:

 “Sec. 9813. Coverage of immunosuppressive drugs.”;

4 and

5 (2) by inserting after section 9812 the fol-
6 lowing:

7 **“SEC. 9813. COVERAGE OF IMMUNOSUPPRESSIVE DRUGS.**

8 “A group health plan shall provide coverage of im-
9 munosuppressive drugs that is at least as comprehensive
10 as the coverage provided by such plan on the day before
11 the date of enactment of the Immunosuppressive Drug
12 Coverage Act of 2001, and such requirement shall be
13 deemed to be incorporated into this section.”.

14 (d) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to plan years beginning on or after
16 January 1, 2002.

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